

REMARKS

Claim 31 has been amended to overcome the objection stated by the Examiner in the Office Action dated June 3, 2002. As amended, Claim 31 is now in condition for allowance.

Applicants respectfully request reconsideration of the rejection of claims 23-30, 32 and 33 for the following reasons.

The Examiner's statement, that the "prior art does not suggest a method of applying instant compositions onto plants of plant propagation materials" is absolutely correct.

Specifically, the Davidson et al. prior art, newly cited by the Examiner, teaches methods of **attracting** (and, if desired, thereafter controlling) insects living especially in buildings at a locus in or near a food storage, preparation, serving or eating area (mentioned are only ants and, especially, cockroaches) by offering an effective amount of an attractant (and, if desired, an insecticide) to these insects for ingestion, preferably in the form of a food source, such as a bait.

This is obviously a teaching which is completely different from the subject matter of the instant invention for many reasons, the most important of which are the following:

(a) According to Davidson, the presence of an **attractant** in the material offered to the insect for ingestion is absolutely compulsory.

(b) The insects at which the Davidson teaching is aiming are those living preferably in **buildings** at a locus in or near a food storage, preparation, serving or eating area, such as ants and cockroaches. These are insects typically called "public health pests".

(c) The attractant (and, if desired, the insecticide) is (are) offered to the insects for ingestion, according to Davidson, preferably in the form of a **food** source, such as a bait.

(d) According to Davidson, the material offered to the insects contains only **one** insecticide, mostly fipronil. In Example 3 of Davidson a second insecticide is mentioned (hydramethylnon), but this is offered to the insects for ingestion in the form of a separate insecticidal bait different from the one containing the fipronil.

(e) Davidson's invention is an invention directed to a **method**.

If these teachings of Davidson are compared with the compositions and methods of the present invention, it becomes immediately crystal clear that the instantly suggested subject matter has more or less nothing in common with the teaching of Davidson. For Example:

(a) The material used according to the instant invention contains **no attractant**. This makes very much sense, since the farmer (for which the subject matter of the instant invention is ultimately intended) is of course by no means

interested in attracting even more insect pests from areas in the neighbourhood of his fields (in addition to those pests already present in his fields anyway which he aims to control).

(b) The situation in a farm area (field) is of course completely different from the situation in a building. Rain, sunshine, wind, large temperature differences, wild animals, etc. can be, and usually are, present in a farm area, whereas such conditions are not normally found in buildings (that is basically why buildings are constructed). There are typically no cockroaches in a farm area. Ants may be present in a field, but they are considered as beneficial insects in the farming environment (they control, for example, aphids), and the farmer is aiming at preserving such beneficial insect populations as well as possible.

(c) For various reasons (amount of material necessary to be distributed; attraction of wild animals; separation of pesticides from foodstuff for security reasons; etc.), the farmer has no interest at all in applying his insecticides in the form of a food source.

(d) The instant invention clearly deals with mixtures (and methods using them) comprising **at least two different insecticides**.

(e) The instant invention deals not only with methods (which, according to the Examiner, are not suggested by the prior art), but also with the compositions applied in these methods, which comprise at least two different insecticides.

From this analysis of the Davidson prior art on the one hand and the subject matter of the instant invention on the other hand, it becomes clear, that the Davidson prior art does not negate the patentability of the instant invention.

Davidson, cited by the Examiner, teaches methods of attracting (and, if desired, thereafter controlling) insects. This means, as already discussed, that the presence of an attractant in the material offered to the insects for ingestion is absolutely compulsory. If desired, an insecticide might be present in this material, but the presence of an attractant is what is at any rate compulsory.

The instant invention, however, is dealing with mixtures (and methods in which these are used) of two or more than two **insecticides**. There is no attractant at all present in these mixtures, since the presence of an attractant is not desired as explained above.

There is no hint whatsoever in Davidson to any mixture (or a method of using it) of two or more than two insecticides [not even to such mixtures additionally containing an (instantly undesired) attractant]. In the Examples of Davidson there is no mixture at all employed, not even a

mixture of an attractant with an insecticide, and specifically not a mixture of two or more than two insecticides according to the instant invention (Davidson suggests that fipronil shows both an attractant and an insect controlling effect; the Examples, however, obviously show only an attracting effect of fipronil, but not its insect controlling effect).

Thus, Davidson provides neither any motivation nor any suggestion nor any teaching to prepare (or use) insecticidal mixtures at all. Specifically, in Davidson there is no motivation, suggestion or teaching of the specific insecticidal mixtures (and methods) according to the present invention.

Moriie and Matsuo, both also cited by the Examiner, teach insecticides, which contain as active ingredient, **one** insecticidally active compound. There is not the slightest hint, neither in Moriie nor in Matsuo, to any mixture of two or more than two insecticides. Thus, neither Moriie nor Matsuo provide any motivation or any suggestion or any teaching to prepare insecticidal mixtures at all. Specifically, neither in Moriie nor in Matsuo there is any motivation, suggestion or teaching of the specific insecticidal mixtures according to the present invention.

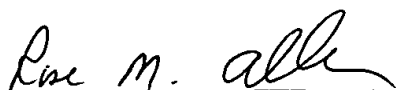
Since neither Davidson on the one hand nor Moriie nor Matsuo on the other hand provide, alone or in combination with one another, any motivation or any suggestion or any teaching to prepare (or use) insecticidal mixtures at all, it is clear that someone skilled in the art could by no means find even the smallest motivation in these references, alone or in combination with one another, pointing or even leading to insecticidal mixtures at all or even to the specific insecticidal mixtures (and methods in which these are used) according to the present invention.

Thus, the insecticidal mixtures and methods of the present invention must be rated as clearly absolutely unobvious in light of the prior art references cited by the Examiner. The insecticidal mixtures and methods of the present invention are, therefore, clearly patentable.

Reconsideration and early issuance of a Notice of Allowance is respectfully requested.

Respectfully submitted,

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